

MAY 22 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ZHUXING CHEN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72469

Agency No. A96-051-920

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006^{**}

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Zhuxing Chen, a native and citizen of China, petitions for review of an order of the Board of Immigration Appeals (“BIA”) affirming an Immigration

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Judge's ("IJ") denial of his applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT").

We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence an adverse credibility determination, *Ge v. Ashcroft*, 367 F.3d 1121, 1124 (9th Cir. 2004), and we deny the petition for review.

Where, as here, it is unclear whether the BIA conducted a de novo review, the court may also look to the IJ's opinion as a guide to what lay behind the BIA's conclusion. *See Avetova-Elisseva v. INS*, 213 F.3d 1192, 1197 (9th Cir. 2000). Substantial evidence supports the BIA's adverse credibility finding because the inconsistencies between Chen's testimony and his medical records cast doubt on his identity and his injuries, and therefore goes to the heart of his asylum claim. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001).

Because Chen cannot meet the lower standard of eligibility for asylum, he has failed to show that he is entitled to withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Chen has waived his claim for protection under CAT by failing to raise any arguments in his opening brief challenging the denial of this claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.